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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**  
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13 WILLIAM CECIL THORNTON,  
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Petitioner,

v.

MATTHEW CATE, Secretary,  
Respondent.

Civil No. 12-0118 JLS (RBB)

**ORDER:**

**(1) DENYING REQUEST TO PROCEED  
IN FORMA PAUPERIS AS MOOT; AND**

**(2) DISMISSING CASE WITHOUT  
PREJUDICE**

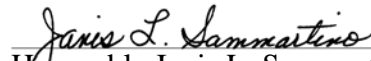
21 Petitioner, a state prisoner proceeding *pro se*, has submitted a Petition for Writ of Habeas  
22 Corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis.

23 The instant Petition is not the first Petition for a Writ of Habeas Corpus Petitioner has submitted  
24 to this Court challenging his 1987 Tennessee conviction for sexual battery. On January 27, 2011,  
25 Petitioner filed in this Court a Petition for Writ of Habeas Corpus in case No. 11cv0190 LAB (JMA).  
26 In that petition, Petitioner challenged his conviction in his 1987 Tennessee case as well, arguing that  
27 his federal due process and equal protection rights were violated. (*See* Pet. at 4 in case number  
28 11cv0190 LAB (JMA), *Thornton v. Strainer*.)

1           It appears Petitioner is now attempting to challenge his Tennessee conviction on an additional  
2 ground in the current Petition. (*See* Pet. at 6.) Petitioner is advised that if he is attempting to challenge  
3 his 1987 Tennessee conviction he must file a motion to amend his petition in case number 11cv0190  
4 LAB (JMA). In light of the above, the Court **DENIES** Petitioner's request to proceed in forma pauperis  
5 as moot, and **DISMISSES** the case without prejudice.

6           **IT IS SO ORDERED.**

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8 DATED: February 16, 2012

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10 Honorable Janis L. Sammartino  
11 United States District Judge  
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